

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Kulig	Team: Squad #1	CCRB Case #: 201402388	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 03/02/2014 12:45 PM	Location of Incident: Havemeyer Street and Borinquen Place	Precinct: 90	18 Mo. SOL 9/2/2015	EO SOL 9/2/2015	
Date/Time CV Reported Wed, 03/12/2014 2:02 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 03/12/2014 2:02 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rudy Dominguez	08683	936503	090 PCT
2. POM Stephen Sheppard	13816	945001	090 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Laura Bromley	01685	939016	090 PCT
2. SGT Joseph Zaikowski	05130	931470	090 PCT
3. SGT Charles Senat	00520	933345	090 PCT
4. LT Martin Mckinney	00000	914452	090 PCT
5. POM Manuel Cantoralonso	11751	945155	090 PCT
6. POM Raul Santos	02329	931160	PROPCLK

Officer(s)	Allegation	Investigator Recommendation
A.POM Rudy Dominguez	Abuse: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez stopped § 87(2)(b)	
B.POM Stephen Sheppard	Abuse: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard stopped § 87(2)(b)	
C.POM Stephen Sheppard	Abuse: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard frisked § 87(2)(b)	
D.POM Stephen Sheppard	Abuse: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard searched § 87(2)(b)	
E.POM Rudy Dominguez	Abuse: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez frisked § 87(2)(b)	
F.POM Rudy Dominguez	Abuse: At the 90th Precinct stationhouse, PO Rudy Dominguez strip-searched § 87(2)(b)	
G.POM Stephen Sheppard	Abuse: At the 90th Precinct stationhouse, PO Stephen Sheppard strip-searched § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint in person at the CCRB on March 12, 2014 (encl. 5A-5D).

At approximately 12:45 p.m. on March 2, 2014, § 87(2)(b) was stopped by PO Rudy Dominguez and PO Stephen Sheppard in the vicinity of Havemeyer Street and Borinquen Place in Brooklyn. The following allegations resulted:

- **Allegation A – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez stopped § 87(2)(b)**
- **Allegation B – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard stopped § 87(2)(b)**
- **Allegation C – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard frisked § 87(2)(b)**
- **Allegation D – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard searched § 87(2)(b)**
- **Allegation E – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez frisked § 87(2)(b) § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(b)
- **Allegation F – Abuse of Authority: At the 90th Precinct stationhouse, PO Rudy Dominguez strip-searched § 87(2)(b)**
- **Allegation G – Abuse of Authority: At the 90th Precinct stationhouse, PO Stephen Sheppard strip-searched § 87(2)(b) § 87(2)(g)**
§ 87(2)(b)
§ 87(2)(b)

This case was ineligible for mediation at the time of § 87(2)(b)'s interview because there was an alleged strip-search.

Results of Investigation

Civilian Statement

Complainant: § 87(2)(b)

- § 87(2)(b) *a 5'9" tall, 145 lb. white male with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.* § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on March 12, 2014 (encl. 7A-7D).

At approximately 12:45 p.m. on March 2, 2014, § 87(2)(b) left his grandmother's house to meet a coworker for brunch. § 87(2)(b) walked towards the Marcy Avenue stop on the J train since the L train was not working at the time. He was generally walking south but stated that he was "cutting in and out" along the way.

At the time, § 87(2)(b) was wearing navy blue slacks, a black coat with a faux-fur collar, Adidas Gazelle sneakers, a gray zip-up hoodie, and a black beanie. He had two pockets in the

sides of his pants and two pockets on the back. His coat had two pockets on the front, a pocket on his left sleeve, and an interior pocket on the left side. The only things he was carrying with him were his phone and a notebook, which he held in his hands inside of his coat pockets. He also had a small, approximately two-inch by three-inch gray wallet in his back left pocket, as well as some keys and toothpicks in his interior pocket.

§ 87(2)(b) was alone on his walk to the train. He did not speak to anyone along the way. He did not make any stops along the way, except possibly to take a picture or two for Instagram. He did not enter any buildings.

As § 87(2)(b) reached the intersection of Havemeyer Street and Borinquen Place, which is approximately eight to ten blocks from his grandmother's house, a marked ten-to-twelve-passenger police van pulled up on Borinquen Place. Two uniformed officers exited. One of the officers, PO Rudy Dominguez, whose name § 87(2)(b) obtained from his summons, was a 5'10" tall, one-hundred-seventy-pound Hispanic male in his late twenties or early thirties. The other officer, who was identified by the investigation as PO Stephen Sheppard, was a 5'10" tall, one-hundred-ninety to two-hundred-pound white male in his late twenties with black hair.

PO Dominguez and PO Sheppard walked towards § 87(2)(b) possibly gesturing for him to stop, but making no verbal commands. As they reached him, PO Sheppard said something along the lines of, "We know you have something on you." His tone was stern and aggressive. § 87(2)(b) responded that he did not have anything on him and that he had no idea what PO Sheppard was talking about. He also asked the officers what this was about, and they told him not to worry about it and that they knew he had something on him.

Immediately, PO Sheppard and PO Dominguez began patting and searching § 87(2)(b). PO Sheppard patted § 87(2)(b)'s chest, ribs, and legs from top to bottom. He then went into each of § 87(2)(b)'s pockets, removing all of his possessions and retrieving his identification from his wallet. § 87(2)(b) was "pretty sure" that PO Dominguez participated in some way, but he could not specify exactly what PO Dominguez did or whether he patted or searched him.

While § 87(2)(b) was being frisked and searched, the officers repeatedly told him that they knew he had something on him and that he was lying. PO Sheppard said that if § 87(2)(b) "gave it to him now," then things would be a lot easier. § 87(2)(b) was compliant during the search and simply kept asking why the officers were searching him and what this was about.

At some point, the officers informed § 87(2)(b) that two other officers had seen him coming out of a building that was known for heroin sales. § 87(2)(b) did not remember the address of the building at the time of his CCRB interview but stated that it was written on the summons that he was eventually issued. § 87(2)(b) stated during his CCRB interview that he has never been to that building and did not know where it was located. He believed it was possible that he walked by it on his way to the train.

After approximately ten minutes, § 87(2)(b) was handcuffed and placed in the police van. On the way to the 90th Precinct stationhouse, the officers asked him questions about where he was going and what he was doing. He told them he was just going to meet a coworker for lunch. At some point, PO Sheppard turned around and took a photograph of § 87(2)(b) with his phone. He told § 87(2)(b) that it was to verify with the other two officers that he was the one they saw coming out of the building.

When they arrived at the stationhouse, the officers told § 87(2)(b) again that if he handed "it" over now, things would be easier. They also told him that bringing heroin into the stationhouse is a felony, so it would be in his best interest to give it to them. § 87(2)(b) told the officers that he did not have anything, so there was nothing to give them.

Once inside the stationhouse, § 87(2)(b) was brought to the front desk. PO Dominguez and PO Sheppard gave all of § 87(2)(b)'s belongings to the desk officer, an unidentified 5'8" to 5'9" tall Hispanic male in his late thirties with dark brown or black hair.

Afterwards, PO Dominguez and PO Sheppard took § 87(2)(b) to a room located about ten feet behind the desk. The room had cells, a desk, and a bathroom. Once inside, § 87(2)(b) was asked to sit in a chair. The handcuffs were removed, and another unidentified officer, who § 87(2)(b) described as an older, heavyset (approximately two hundred fifty pounds), white male who had gray hair and was balding, entered the room.

The officers asked § 87(2)(b) to remove his clothing, including his coat, beanie, and button-up shirt (which he wore over a tee shirt), his pants, and his shoes and shoelaces. The officers searched the soles of his shoes and had him turn his socks inside out. The officers did not find anything in his clothing and repeatedly told him he was lying. They then asked him to go into the bathroom, pull down his underwear, and squat. The unidentified white male officer stood at the threshold of the bathroom door while he pulled down his underwear. PO Dominguez and PO Sheppard remained in the cell room. No one else was present for the search.

After the strip-search was completed, the officers had § 87(2)(b) sit back down. The unidentified white male officer shined a flashlight in § 87(2)(b)'s mouth and asked him if he swallowed "it." He told § 87(2)(b) that he could bring him in for x-rays or he could just put him in the cell and wait until he gets sick and starts throwing up.

The officers continued to speak amongst themselves, telling each other that they thought § 87(2)(b) was lying. After approximately half an hour, they told § 87(2)(b) to put his clothes back on and said they were writing him a summons for § 87(2)(b). § 87(2)(b) waited while they completed the paperwork. Eventually, PO Dominguez handed him the summons and told him he was free to leave.

Photo Array (encl. 7M-7N)

A photo array was conducted with § 87(2)(b) on November 20, 2014. § 87(2)(b) was first shown an array containing the photograph of PO Nicholas Horun. He did not recognize any of the officers in the array. § 87(2)(b) was next shown an array containing the photograph of Sgt. Joseph Zaikowski. He did not recognize any officers in the array.

Witness: § 87(2)(b)

- § 87(2)(b) a 5'6" tall, 130 lb. White Hispanic male with black hair and brown eyes, was § 87(2)(b) years old at the time of the incident.

CCRB Telephone Statement

§ 87(2)(b) provided a telephone statement to the CCRB on December 24, 2014. § 87(2)(b) stated that at approximately 1:09 p.m. on March 2, 2014, he entered § 87(2)(b) where he used to live, to visit a friend on the fourth floor. His friend was not home, so he left. He was inside the building for approximately seven or eight minutes in total. § 87(2)(b) confirmed that drugs are sold in the building.

When § 87(2)(b) exited the building, he was stopped by two uniformed officers, one whom he described as a 5'8" tall, 180 lb. Hispanic male in his 40s who was balding, and the other whom he described as a 5'6" tall Hispanic female in her late 30s or early 40s with long wavy hair. These officers were identified by the investigation as PO Laura Bromley and PO Carlos Zambrano. They asked him where he was coming from. He told them he was coming from his friend's house and that she was not there, so he left and was heading home. The officers then told him to go up against a wall. They searched § 87(2)(b) and found an empty cellophane bag in his pants. He presumed that the officers thought the bag may have had drugs in it. He stated that the pants did not belong to him because he had stayed over someone's house.

§ 87(2)(b) was taken to the stationhouse. § 87(2)(f)

The sergeant reviewed § 87(2)(b)

§ 87(2)(b)'s case, spoke for him, and let him go with a summons for § 87(2)(b) inside of § 87(2)(b). Nothing else happened in the stationhouse, and he did not see anyone else there who had been stopped in the same area.

NYPD Statements:

Subject Officer: PO RUDY DOMINGUEZ

- *PO Dominguez, a 6'2" tall, 220 lb. Hispanic male with black hair and brown eyes, was § 87(2)(b) years old at the time of the incident.*
- *On the day of the incident, PO Dominguez worked between 9:30 a.m. and 6:05 p.m. He was assigned to the SNEU prisoner van in the 90th Precinct. He was partnered with PO Sheppard. He was dressed in uniform and worked in marked van # 8530.*

Memo Book (encl. 8A-8C)

At 12:40 p.m., one individual was arrested from Borinquen Place and Havemeyer Street in regards to a SNEU operation. At 12:45 p.m., summons # § 87(2)(b) was served to § 87(2)(b) NYS driver's license number § 87(2)(b) of 223 § 87(2)(b), for § 87(2)(b) § 87(2)(b) is 5'7" tall, 140 lbs., and has brown eyes and black hair. His date of birth is § 87(2)(b).

Summons # § 87(2)(b) (encl. 8D)

PO Dominguez issued a summons to § 87(2)(b) for § 87(2)(b). The location of occurrence was listed as 224 South 3rd Street.

CCRB Statement

PO Dominguez was interviewed at the CCRB on April 2, 2014 (encl. 8E-8G).

At approximately 12:40 p.m. on March 2, 2014, PO Dominguez and PO Sheppard were inside the prisoner van when they observed § 87(2)(b) go inside § 87(2)(b) in Brooklyn, and then exit the building approximately twenty to thirty seconds later. PO Dominguez did not see what § 87(2)(b) did or where he went inside the building. He did not see him interact with anyone. He did not see if § 87(2)(b) ever left the lobby.

PO Dominguez was familiar with this building prior to the incident. He explained that the building is residential and has a sign that says something along the lines of "No Loitering" on the outside. It is a drug-prone location that is known for heroin and possibly marijuana. PO Dominguez was aware of this because of previous warrants and arrests he has made inside the building. He was not sure of any exact dates but believed they were in the past year.

PO Dominguez decided to stop § 87(2)(b) for trespassing. He did not know if § 87(2)(b) lived in the building at the time, and there was nothing that indicated to PO Dominguez that it was not his residence. PO Dominguez simply intended to inquire whether he lived there. He did not suspect § 87(2)(b) of having committed any other crime.

PO Dominguez stated that he attempted to stop § 87(2)(b) but he did not indicate what his specific actions were. He stated that § 87(2)(b) kept walking, so he followed § 87(2)(b) in the van and stopped him about a block away, on the corner of Borinquen Place and Havemeyer Street. He did not see § 87(2)(b) do anything while he was walking.

PO Dominguez and PO Sheppard both exited the vehicle. PO Dominguez attempted to speak with § 87(2)(b) but he became "irate" and began yelling and moving his hands. PO Dominguez asked § 87(2)(b) where he lived and what his reason for being in the building was. § 87(2)(b) did not answer. PO Dominguez also requested § 87(2)(b)'s identification, but § 87(2)(b) did not respond to this request and continued yelling. PO Dominguez did not remember anything

specific that § 87(2)(b) said. Neither PO Dominguez nor PO Sheppard ever told § 87(2)(b) that they knew he had something on him or to hand “it” over. During the incident, a crowd of between five and ten people formed.

PO Dominguez initially stated that he placed § 87(2)(b) in handcuffs for safety reasons since he was screaming and a crowd had gathered. He later stated, instead, that § 87(2)(b) was under arrest for trespassing at this point. PO Dominguez determined that § 87(2)(b) was under arrest after he refused to answer any of his questions. He did not have a computer in the van and wanted to check for warrants at the stationhouse. He never saw § 87(2)(b)'s identification while on scene.

After § 87(2)(b) was placed in handcuffs, PO Dominguez frisked him to make sure § 87(2)(b) did not have weapons or anything else before placing him in the van. PO Dominguez initially stated that he also searched § 87(2)(b) but later stated that he did not go into any of § 87(2)(b)'s pockets at this time. He patted § 87(2)(b)'s belt area and well as his legs and ankles. He denied patting § 87(2)(b) or going into any of his pockets before § 87(2)(b) was placed in handcuffs. He did not see PO Sheppard do this.

Once they arrived at 90th Precinct stationhouse, PO Dominguez brought § 87(2)(b) to the desk. He believed that he spoke to a supervisor, but he did not recall which officer was at the desk at this time. He believed that he told the desk officer he was going to issue § 87(2)(b) a summons as long as he had no warrants.

§ 87(2)(b) was cooperative at the stationhouse. PO Dominguez requested his identification, and he told PO Dominguez where it was. PO Dominguez did not recall where it was at the time of his CCRB interview. He looked at § 87(2)(b)'s identification and saw that he did not live at § 87(2)(b).

At some point while he was in the stationhouse, § 87(2)(b) was brought to the holding cells. PO Dominguez did not recall when this was. Before placing him inside, PO Dominguez patted § 87(2)(b)'s clothing and went into his front and back pockets. He stated that he wanted to make sure that nothing went into the cells. PO Sheppard was the only other officer present for the search.

While § 87(2)(b) was inside the holding cell, PO Dominguez checked his identification for warrants in a different room. When the check came back negative, he issued § 87(2)(b) a summons for § 87(2)(b) and released him. PO Dominguez denied ever strip-searching § 87(2)(b). He never saw another officer do so, and he never became aware that this had occurred.

During his CCRB interview, PO Dominguez viewed the command log entry for § 87(2)(b). He stated that he did not know who made the entry and did not know why “criminal possession of a controlled substance” was written in the entry and subsequently crossed out. He never suspected § 87(2)(b) of being in possession of a controlled substance and never discussed the possibility of him being in possession of a controlled substance with anyone else.

Subject Officer: PO STEPHEN SHEPPARD

- *PO Sheppard, a 5'9" tall, 200 lb. white male with brown hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Sheppard worked between 9:30 a.m. and 6:05 p.m. He was assigned to SNEU with PO Dominguez, where his responsibilities are to find people selling and using drugs. He was dressed in uniform and worked in vehicle number 8530, a marked van.*

Memo Book (encl. 9A-9B)

At 12:40 p.m., a white male § 87(2)(b) DOB: § 87(2)(b) was arrested at Borinquen Place and Havemeyer Street. He was arrested in

regards to a SNEU operation. At 12:45 p.m., he was released with a summons by PO Dominguez for § 87(2)(b). He was negative for contraband. He was also observed by the observation post.

PO Sheppard had an additional entry noting that an arrest was voided. It was crossed out and initialed "SS."

CCRB Statement

PO Sheppard was interviewed at the CCRB on June 13, 2014 (encl. 9C-9E). His statement was generally consistent with that of PO Dominguez, except where noted below.

PO Sheppard corroborated PO Dominguez's account of their observations prior to stopping § 87(2)(b). He confirmed that he was also familiar with § 87(2)(b) prior to the incident through various search warrants and arrests for drug sales, primarily heroin, marijuana, and crack cocaine. When § 87(2)(b) went into the building, he did not appear to use a key or the buzzer and instead seemed to just push the door open. PO Sheppard stated that a dealer often sits in the lobby of the building at that time of day with the door propped open. However, he did not see anyone else in the lobby when § 87(2)(b) entered and could not tell where § 87(2)(b) went in the building.

When § 87(2)(b) left the building 30 seconds later, PO Sheppard and PO Dominguez called out to him to stop several times. They intended to question him about what he was doing in the building. PO Sheppard did not suspect § 87(2)(b) of any violation or crime, except possibly trespassing. PO Sheppard's sole reason for suspecting him of trespassing was the length of time § 87(2)(b) was in the building, which he felt was too short for § 87(2)(b) to be visiting someone or going to his own apartment.

§ 87(2)(b) ignored PO Sheppard's and PO Dominguez's calls for him to stop. He continued walking east on South 3rd Street and turned south onto Havemeyer Street. PO Sheppard and PO Dominguez drove after him and again told him to stop at the corner. § 87(2)(b) continued to ignore them, so PO Sheppard and PO Dominguez got out of the van and walked up to him.

PO Sheppard and PO Dominguez began to question § 87(2)(b) asking him where he was coming from and where he was going. PO Sheppard believed that § 87(2)(b) responded to these requests for information, indicating that he was coming from his apartment in Greenpoint. PO Sheppard then asked § 87(2)(b) about going into § 87(2)(b), which § 87(2)(b) denied ever doing. PO Sheppard and PO Dominguez pressed him on the matter, and he continued to deny it, becoming loud and belligerent. He also told the officers to leave him alone every time they asked him a question. PO Sheppard did not recall asking § 87(2)(b) about being in possession of heroin or any other narcotics, though he believed PO Dominguez asked him if he had "anything" on him later at the precinct.

PO Dominguez and PO Sheppard placed § 87(2)(b) in handcuffs for their safety. PO Sheppard felt "in his gut" that § 87(2)(b) might become violent because he was belligerent and was tensing up. PO Dominguez immediately frisked his waistband and pockets to make sure he had nothing dangerous in his possession. There was nothing that indicated § 87(2)(b) was in possession of a weapon, but PO Sheppard stated it was "standard procedure." He did not elaborate on this further. § 87(2)(b) was not searched at this time.

After he was handcuffed and frisked, § 87(2)(b) was transported to the 90th Precinct stationhouse so that PO Sheppard and PO Dominguez could conduct a warrant check in a "safer" environment. PO Sheppard believed they may have questioned § 87(2)(b) further about where he was coming from, but he denied speaking to the observation post at this time.

Once at the stationhouse, PO Dominguez searched § 87(2)(b) for weapons, contraband, and other property in front of the desk. He went inside § 87(2)(b)'s pockets and patted him from head to toe. PO Dominguez and PO Sheppard then brought him to the holding cells. PO Dominguez conducted a more extensive search, checking § 87(2)(b)'s socks and sneakers.

However, § 87(2)(b) was not strip-searched or ever brought into the bathroom. He did not recall if any other officers were in the room.

After a warrant check came back negative, PO Dominguez issued § 87(2)(b) a summons for § 87(2)(b) and released him from the precinct. § 87(2)(b) was never suspected of being in possession of narcotics at any point. During his CCRB interview, PO Sheppard viewed the command log entry for § 87(2)(b). He stated that he did not write the entry and was not aware that it had been written.

PO Sheppard also added that, while at the stationhouse, the observation post for the SNEU team told PO Sheppard that he had also seen § 87(2)(b) go into § 87(2)(b) § 87(2)(b). PO Sheppard did not recall who was acting as the observation post on this day.

Witness Officer: LT. MARTIN MCKINNEY

- *Lt. McKinney, a 5'8" tall, 245 lb. black male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Lt. McKinney worked between 6:50 a.m. and 3:35 p.m. He was the desk officer for the 90th Precinct. He was dressed in uniform. He did not have a partner or a vehicle assignment.*

Memo Book (encl. 10A-10B)

Lt. McKinney had no memo book entries, and was not required to make any, because he was assigned as the desk officer.

CCRB Statement

Lt. McKinney was interviewed at the CCRB on July 1, 2014 (encl. 10C-10D). He did not recall the incident. He viewed the command log entry for § 87(2)(b) and confirmed that it was his handwriting, but he had no specific memory of making it. He did not know why the original charge of criminal possession of a controlled substance was crossed out or why § 87(2)(b) was written over it. He denied authorizing a strip-search, stating that he has never authorized one in his career. He never learned that a prisoner had been strip-searched on this day.

Witness Officer: SGT. CHARLES SENAT

- *Sgt. Senat, a 6' tall, 240 lb. black male with brown eyes and a bald head, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, Sgt. Senat worked between 9:15 a.m. and 6:12 p.m. He was the SNEU supervisor. He was working with PO Bromley and PO Zambrano. He was dressed in uniform and worked in vehicle number 222, a gray Chevy Impala.*

Memo Book (encl. 11A-11B)

Sgt. Senat did not have any memo book entries pertaining to the incident.

CCRB Statement

Sgt. Senat was interviewed at the CCRB on July 16, 2014 (encl. 11C-11D).

Around 12:45 p.m. on March 2, 2014, Sgt. Senat received a call from PO Dominguez stating that he had stopped an individual, who he later learned to be § 87(2)(b) for § 87(2)(b) and that he wanted to issue him a summons at the stationhouse. PO Dominguez did not describe the specific observations that led to the stop and did not indicate that he suspected § 87(2)(b) of anything other than trespassing. He told Sgt. Senat that the reason he wanted to bring him to the stationhouse was that the area was a little "hectic," but he provided no further description of what he meant by "hectic."

Sgt. Senat returned to the stationhouse approximately ten to fifteen minutes later, at which

time he reviewed the command log. He noticed that the charge listed for § 87(2)(b) was criminal possession of a controlled substance. He called PO Dominguez over and asked him if anything had changed from the time they spoke on the phone. PO Dominguez said, “No.” Sgt. Senat then crossed out the initial charge and changed it to trespass. Sgt. Senat never found out why criminal possession of a controlled substance had been written. PO Dominguez never indicated to Sgt. Senat at any time that he suspected § 87(2)(b) of this. To Sgt. Senat’s knowledge, § 87(2)(b) was never strip-searched. He never authorized a strip-search.

Witness Officer: PO LAURA BROMLEY

- *PO Bromley, a 5’4” tall, 142 lb. Hispanic female with brown hair and brown eyes, was § 87(2)(b) years old at the time of the incident.*
- *On the day of the incident, PO Bromley worked between 9:30 a.m. and 6:05 p.m. She was assigned to SNEU with PO Zambrano. She was dressed in uniform and worked in unmarked vehicle number 222, a gray Chevy Impala.*

Memo Book (encl. 12A-12B)

PO Bromley did not have any memo book entries pertaining to the incident.

CCRB Statement

PO Bromley was interviewed at the CCRB on May 20, 2014 (encl. 12C-12D).

PO Bromley had no memory of the incident. During her CCRB interview, she viewed a photograph of § 87(2)(b) but she did not recognize him. She also viewed the command log entry, though she stated that she had no idea why her name was listed as § 87(2)(b)’s arresting officer. She had no involvement in bringing him in.

Witness Officers: PO MANUEL CANTOR-ALONSO AND PO RAUL SANTOS

- *PO Cantor-Alonso, a 5’5” tall, 150 lb. Hispanic male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *PO Santos, a 5’9” tall, 175 lb. Hispanic male with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Cantor-Alonso and PO Santos worked between 9:30 a.m. and 6:05 p.m. They were both assigned to the SNEU observation post. They were dressed in plain clothes and were working on foot.*

Memo Books (encl. 13A-13B and 14A-14D)

Neither PO Cantor-Alonso nor PO Santos had any memo book entries pertaining to the incident. They both indicated that they were assigned to the observation post for the 90th Precinct SNEU team.

CCRB Statements

PO Cantor-Alonso was interviewed at the CCRB on August 27, 2014 (encl. 13C-13D). PO Santos was interviewed on October 1, 2014 (encl. 14E-14F).

PO Cantor-Alonso and PO Santos both explained that their responsibilities within the observation post assignment are to make observations of drug transactions, which would then be communicated to the prisoner van or apprehension team. Though they were both familiar with § 87(2)(b), due to it being a drug-prone location, neither PO Cantor-Alonso nor PO Santos remembered making any observations there on this day.

During PO Santos’s CCRB interview, he was presented with the command log, which notes an arrest made by PO Cantor-Alonso at South 3rd Street and Roebling Street at approximately

1:20 p.m. PO Santos did not remember this and had nothing noted in his memo book about it. He stated that, because PO Cantor-Alonso was listed as the arresting officer, it is likely that he made the observation leading to the arrest. Because PO Santos never separated from PO Cantor-Alonso, PO Santos he assumed that he must have been there as well.

Witness Officer: SGT. JOSEPH ZAIKOWSKI

- *Sgt. Zaikowski, a 6'3" tall, 225 lb. white male with blond hair and green eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, Sgt. Zaikowski worked between 6:55 a.m. and 3:52 p.m. He was assigned as the patrol supervisor, but he did not remember with whom he was working. He was dressed in uniform and worked in a marked vehicle.*

Memo Book (encl. 15A-15B)

Sgt. Zaikowski did not have any memo book entries pertaining to the incident.

CCRB Statement

Sgt. Zaikowski was interviewed at the CCRB on December 12, 2014.

Sgt. Zaikowski had no recollection of the incident or of § 87(2)(b). He viewed a photograph of § 87(2)(b) during his CCRB interview but did not recognize him. He stated that he arrived at the stationhouse around 12:30 p.m. on that day to relieve the desk officer. He did not do anything inside the stationhouse before relieving the desk officer. He denied ever going to another part of the stationhouse or interacting with any prisoners on this day. He denied strip-searching anyone or ever becoming aware that an individual had been strip-searched.

NYPD Documents

Command Log (encl. 15P-15S)

An arrest for § 87(2)(b) was entered into the command log at 12:48 p.m. PO Bromley is listed as the arresting officer. The charge was initially entered as criminal possession of a controlled substance. This was later crossed off, and § 87(2)(b) was written over it in different handwriting. The location of the arrest was the corner of Havemeyer Street and Borinquen Place. § 87(2)(b) was released with a summons at 1:10 p.m. No strip-search was documented.

Sgt. Zaikowski was present at the desk at 1:00 p.m.

At 1:20 p.m., an entry was made for § 87(2)(b) (DOB: § 87(2)(b)). His arresting officer was PO Cantor-Alonso, and the charge was also initially listed as criminal possession of a controlled substance and later changed to § 87(2)(b). The location of his arrest was South 3rd Street and Roebling Street. § 87(2)(b) was released with a summons at 2:22 p.m.

Sgt. Joseph Zaikowski Photograph (encl. 15A)

Sgt. Zaikowski, a 6'4" tall, 225 lb. white male with short blonde hair, green eyes, and an average build. He was § 87(2)(b) old at the time of the incident.

PO Nicholas Horun Photograph (encl. 15B)

PO Horun is a 6'1" tall, 240 lb. white male with short military style blonde hair, green eyes, and an average build. He was § 87(2)(b) old at the time of the incident.

Other Evidence

Photograph of Location (encl. 4B)

A photograph of the front of § 87(2)(b) shows a sign on the front that reads “No Trespassing. Tenants & Their Guest Only. Trespassers will be prosecuted.”

Attempts to Obtain Video Footage

Fieldwork was conducted at § 87(2)(b) on April 3, 2014. The superintendent, § 87(2)(b) (unknown last name), brought up the security footage system on a monitor but could not figure out how to review old video footage. The undersigned investigator attempted to change the date of the system to March 2, 2014, but there were no results for video footage on this day. Furthermore, the date that was currently displayed on the monitor was incorrect, indicating that the system was not functioning properly. § 87(2)(b) provided the name and phone number of the building manager, § 87(2)(b), who was contacted on April 8, 2014. § 87(2)(b) replied on April 11, 2014, stating that he did not know how to work the security footage system and that he believed the footage was only saved for thirty days.

Summons/Arrest for Incident and Disposition

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)], § 87(2)(a) 160.50

Status of Civil Proceedings (encl. 17A-17G)

- § 87(2)(b) filed a notice of claim with the City of New York on § 87(2)(b). The damages claimed were not indicated on the documents. There was no 50-H held for § 87(2)(b). § 87(2)(b) received a settlement of \$3,500.00 (encl. 7J-7L).

Civilian Criminal History (encl. 16A-16J)

- As of March 3, 2015, no arrests could be located for § 87(2)(b) in BADS. Without a NYSID, a criminal conviction history search could not be performed.

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).

Subject Officer(s) CCRB History

- PO Rudy Dominguez has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. 2A). This is the first CCRB case of which he is a subject.
- PO Stephen Sheppard has been a member of the service for seven years and there is one substantiated CCRB allegation against him. In case # 200804416, a question allegation was substantiated against him with command discipline recommended. He received no disciplinary action by the police department. However, an improper stop allegation was added by the police department for which PO Sheppard received instructions. He has been the subject in two additional cases (201017420, 201209936) alleging street stops, frisks, and searches. Neither was substantiated. He has not been the subject of any other strip search allegations (encl. 2B-2C).

Conclusion

Allegation Not Pleaded

§ 87(2)(b) alleged that a third officer, who he only came into contact with at the station

house, participated in his strip search. The only two white male officers with a stationhouse assignment were PO Horun and Sgt. Zaikowski, neither of whom closely matched the description. Additionally, § 87(2)(b) did not recognize either officer in a photo array. § 87(2)(g)

Identification of Subject Officers

- § 87(2)(b) identified PO Dominguez by name and shield number, which he obtained from his summons. He also provided a description, which generally matched PO Dominguez's pedigree information. § 87(2)(g)
- § 87(2)(b) provided a description of PO Dominguez's partner, which generally matched PO Sheppard's pedigree information. PO Sheppard had a memo book entry pertaining to the incident and also confirmed his involvement during his CCRB interview. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez stopped § 87(2)(b)

Allegation B – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard stopped § 87(2)(b)

Allegation C – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard frisked § 87(2)(b)

Allegation D – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Stephen Sheppard searched § 87(2)(b)

Allegation E – Abuse of Authority: At Havemeyer Street and Borinquen Place in Brooklyn, PO Rudy Dominguez frisked § 87(2)(b)

It is undisputed that PO Sheppard and PO Dominguez approached § 87(2)(b) at the corner of Havemeyer Street and Borinquen Place in Brooklyn and subsequently questioned him, requested his identification, and placed him in handcuffs.

§ 87(2)(b) stated that he was walking from his grandmother's house at § 87(2)(b) to the Marcy Avenue stop on the J Train when PO Dominguez and PO Sheppard approached him. He did not stop at § 87(2)(b), or anywhere else, along the way. When PO Sheppard and PO Dominguez exited their vehicle, they immediately accused him of having "something" on him. § 87(2)(b) indicated that he had no idea what they were talking about, and the officers told him he was lying. He was then frisked and searched by the officers. He stated that PO Sheppard was the main officer involved in the frisk and search, patting him from top to bottom, entering his pockets, and removing all of his possessions. He believed that PO Dominguez was also involved but could not specify his exact role. During this time, the officers retrieved his identification from his wallet. He was then handcuffed and taken to the 90th Precinct stationhouse. At some point, PO Dominguez and PO Sheppard told § 87(2)(b) that two other officers had seen him go into § 87(2)(b).

PO Dominguez and PO Sheppard both stated that they saw § 87(2)(b) enter and then leave

224 South 3rd Street in a span of twenty to thirty seconds. Neither of them saw where he went or what he did inside the building, which they both knew as a heroin and marijuana-prone location. They decided to question him about whether he lived in the building, though they both admitted that there was nothing in particular that led them to believe he did not live there except for the amount of time he was in the building and, as PO Sheppard alone noted, that he did not use a key or buzzer to get into the building.

According to the officers, § 87(2)(b) ignored the officers' initial requests for him to stop. They followed him around the corner in their van. When they eventually approached him at the corner of Havemeyer Street and Borinquen Place, they questioned him about where he lived, where he was going, and his reason for being in the building. PO Dominguez stated that § 87(2)(b) immediately began yelling and moving his hands, refusing to answer his questions. PO Sheppard, on the other hand, stated that § 87(2)(b) told them where he was coming from and where he was going but denied ever entering § 87(2)(b). PO Dominguez also stated that § 87(2)(b) refused to provide his identification when asked, while PO Sheppard made no mention of ever requesting his identification. Both officers denied ever suspecting § 87(2)(b) of being in possession of narcotics or making any mention of heroin to him. They also denied frisking or searching § 87(2)(b) before he was placed in handcuffs. They both stated that PO Dominguez frisked § 87(2)(b) on scene after he was under arrest but did not search him until he was brought to the stationhouse. They denied that PO Sheppard ever participated in a frisk or a search during the incident.

§ 87(2)(g)

1) PO Dominguez and PO Sheppard were assigned to SNEU at the time of the incident, for which their responsibilities, in PO Sheppard's own words, were to find people "selling and using drugs;" 2) PO Dominguez and PO Sheppard both noted that the building in question is drug-prone and, specifically, that it is known for heroin. § 87(2)(g)

3) The initial charge listed for § 87(2)(b) in the command log is criminal possession of a controlled substance. This charge was then crossed out, and § 87(2)(b) was written over it; 4) PO Sheppard had entries in his memo book noting that § 87(2)(b) was negative for contraband and that a voided arrest was prepared for him, although the entry pertaining to the voided arrest was crossed out and initialed by PO Sheppard; 5) While PO Sheppard and PO Dominguez claimed that part of the reason they brought § 87(2)(b) to the stationhouse was his loud and uncooperative behavior, he was never arrested or issued summonses for disorderly conduct or obstructing governmental administration; and 6) § 87(2)(b) who was stopped by SNEU officers from the same precinct after he exited the same building in which § 87(2)(b) was accused to have been trespassing, independently alleged that he was searched and then taken to the stationhouse, where he was also released with a summons for § 87(2)(b) after his charge was changed from criminal possession of a controlled substance.

§ 87(2)(g)

§ 87(2)(g)

An officer must have reasonable suspicion that an individual has committed, is committing, or is about to commit a crime in order to stop such individual. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1A-1K). Additionally, the courts have established that an individual's mere presence inside of a Trespass Affidavit Program or NYCHA building does not provide officers with an objective credible reason to approach that individual. See People v. Banks, N.Y.L.J., June 29, 1997 (Sup. Ct. New York County) (encl. 1L-1O). While additional factors may justify an officer's request for information, such as in People v. Tinort, 272 A.D.2d 206 (2000) (encl. 1P), where an officer observed an individual in a drug-prone trespass affidavit building, or in People v. Martinez, 924 N.Y.S.2d 311 (2010) (encl. 1Q-1S), where an officer observed an individual enter a NYCHA building without using a key or the buzzer in a drug-prone location, in order to stop a person, a police officer must have a particularized and objective basis, predicated on specific and articulable facts, for suspecting the person of criminal activity. United States v. Cortez, 449 U.S. 411 (1981) (encl. 1T-1BB).

An officer may only frisk an individual when he reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. People v. DeBour. An officer may only search an individual when he has probable cause to believe that evidence or contraband is concealed in the individual's clothing. People v. DeBour.

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority: At the 90th Precinct stationhouse, PO Rudy Dominguez strip-searched § 87(2)(b)

Allegation G – Abuse of Authority: At the 90th Precinct stationhouse, PO Stephen Sheppard strip-searched § 87(2)(b)

§ 87(2)(b) alleged that when he was taken to the 90th Precinct stationhouse, PO Dominguez, and PO Sheppard, and an unidentified officer strip-searched him and continued to press him on whether he had any drugs concealed on his person.

PO Sheppard and PO Dominguez denied strip-searching § 87(2)(b) and none of the other officers admitted to strip-searching him or authorizing a strip-search. Additionally, no strip-search was documented in the command log and § 87(2)(b) who was arrested under similar circumstances, was not strip-searched. While the command log indicated that § 87(2)(b) was suspected of possession of a controlled substance, Lt. McKinney took responsibility for making

that entry and no officer could recall or account for why an entry for anything other than

§ 87(2)(b) was entered. § 87(2)(g)

Under Patrol Guide section 208-05 (encl. 1CC-1EE), a strip-search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods.

§ 87(2)(g)

Pod: 1

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date